



New Jersey Department of Children and Families Policy Manual

Manual:	CP&P	Child Protection and Permanency	Effective Date:
Volume:	II	Intake Investigation and Response	
Chapter:	B	Intake	2-13-2012
Subchapter:	1	Processing Specific Referrals	
Issuance:	800	Protective Custody or Hospital Hold	

Protective Custody Law 2-13-2012

N.J.S.A. 9:6-8.16 to 8.20 authorizes physicians and hospital directors to take children into protective custody ("hospital hold") for a period of up to three court days (three CP&P business days) when the child has suffered serious physical injury or injuries and the most probable inference from the medical and factual information supplied is that the injuries were inflicted by other than accidental means and the person suspected of inflicting or permitting the injury is a person into whose custody the child would be returned. This protective custody "hospital hold" gives temporary legal custody of the child to the hospital or doctor. It does not give CP&P legal custody of the child. Upon initiating the "hospital hold" the hospital is required by law to immediately refer the situation to CP&P. If the Division is granted custody of the child, the child must be discharged from the hospital immediately and placed in an appropriate out-of-home setting.

See [CP&P-IV-A-9-100](#), Placement Episode.

Purpose 4-14-97

The purposes of this "hold" are:

- to prevent the immediate return of the child to the person suspected of having caused the abuse or neglect;
- to provide time - up to 72 hours (three business days) - for CP&P to investigate the allegations and determine whether the child can be returned safely to the parent or caregiver; and, if not
- to assess relatives as potential caregivers for the child upon the child's release; or, if not available
- to identify a foster home and prepare the child for out-of-home placement.

Who Initiates the "Hold"**4-14-97**

Any physician, director of a hospital, or his designee may initiate the "hold." CP&P staff may not initiate a "hold."

If it is the opinion of CP&P staff that it would be helpful in a particular case for a physician or hospital to invoke a "hold" on a child, it may be suggested. However, if the physician or hospital is unwilling to do so, it is the obligation of CP&P to obtain custody of the child through the court or provide other necessary protective action. An emergency removal without a court order may be necessary if the crisis comes to the Division's attention after hours.

When a "Hold" May Be Initiated**4-14-97**

The "hold" may be initiated at the discretion of a physician, hospital director, or his designee when he suspects that a child's condition is the result of abuse or neglect.

Protective custody may be invoked on behalf of an infant born exposed to or testing positive for drugs or alcohol if, in the opinion of the physician or the hospital director or his designee, such exposure has resulted in the newborn having suffered serious physical injury.

A "hold" may not be initiated when:

- CP&P has legal custody of the child and a CP&P staff member has accompanied the child to the hospital, or

- CP&P has acted under N.J.S.A. 9:6-8.29 to remove the child without consent or a court order.

Notifications**4-14-97**

The physician, director of the hospital, or his designee invoking the hold must notify CP&P immediately either through the SCR hotline or the appropriate Local Office. In all cases, even when a hospital has informed the parent(s), CP&P must inform the parent(s) of the action taken by the hospital. CP&P must give the parents written notice of the "hospital hold" and a verbal explanation of its meaning and consequences. Form letters, [CP&P Form 14-47](#), Notification to Parents of Hospital Protective Custody, and [CP&P Form 14-47\(S\)](#) are available for this purpose.

When a child is in a hospital on a "hold," the Worker and Supervisor should advise SCR of the situation, should an inquiry on the case come to the attention of CP&P after hours.

Investigation**4-14-97**

CP&P investigation must begin immediately upon receipt of notification from the doctor or hospital that a "hold" has been invoked. It is not acceptable for CP&P to delay action until the child is ready for discharge and then request a "hospital hold" to permit CP&P more time to make a determination and plan.

The Worker should immediately arrange to see the parent(s), child, attending physician, and any other person(s) with knowledge of the circumstances of the case. The investigation should proceed in accordance with policy and procedures outlined in "Investigation of Abuse/Neglect Referrals and Reports." See [CP&P-II-C-5-800](#).

Services 2-6-2006

If the investigation indicates that services are necessary for the protection of the child, CP&P must offer services to the family. Court action may be sought if the circumstances so warrant. See [CP&P-II-C-2-700](#), Removal of a Child.

If an infant was born exposed to or testing positive for drugs or alcohol and cannot be returned safely to a parent, CP&P takes action, as necessary, to move the child from the hospital within 72 hours (once medically cleared for discharge) and place him or her safely with relatives or into resource family care by court order.

Rights of Parent(s) to Visit 4-14-97

While the child is in the hospital and under the hospital's protective custody, the parent(s) may request to visit the child. Visitation may be granted at the discretion of the physician, hospital director, or his designee provided that the life or health of the child will not be endangered by the visit. The CP&P Worker, with the approval of a Supervisor, may recommend whether visitation should be granted and whether or not the visit should be supervised.

When there is a difference of opinion regarding the parent visiting the child, CP&P and hospital personnel should confer to resolve the difference. Since the hospital or physician has temporary legal custody, the final decision rests with the hospital or physician unless CP&P gains custody through court action.

Termination of the Protective Custody 1-1-84

The "hold" will be terminated automatically:

- when the three court days are over;
- anytime during the three days if the hospital or physician decides to release the child to the custody of the parent(s);
- if the court orders custody returned to the parent; or

- if the court orders the child into CP&P custody.

The hospital's protective custody may be terminated before the end of the three day limit at the discretion of the physician, hospital director or his designee. A recommendation by CP&P to terminate may be made by the Local Office Manager or his designee.

When there is a difference of opinion regarding termination of the "hold," CP&P and hospital personnel should confer to resolve the difference. Since the hospital or physician has temporary legal custody, the final decision rests with the hospital or physician unless CP&P gains custody through court action. If the protective custody is terminated by the physician or hospital against the judgment of CP&P and CP&P determines that the child requires protection, court action may be initiated.

Date of Placement 2-13-2012

For children for whom CP&P obtains legal custody, the date of placement is the date the child is discharged from the hospital and placed out of home by CP&P.

Procedures Related to Protective Custody/"Hospital Hold" 4-14-97

Responsibility	Action Required
Physician, Hospital Director, Designee	1.Invoke a hospital hold 2.Notify CP&P of the "hold" by contacting the Local Office (during regular business hours) or SCR (after hours)

Worker	<p>Prepare CP&P Form 14-47 for the purpose of notifying the parent(s)/caregiver that the “hold has been invoked.</p> <p>Deliver the CP&P Form 14-47 to the parent(s)/caregiver and initiate field investigation by interviewing the parent(s)/caregiver.</p> <p>Continue field investigation by interviewing the child, witnesses, attending physician, other hospital staff, alleged perpetrator and any other person(s) with knowledge of the circumstances of the case. See CP&P-II-C-5-800.</p> <p>Obtain medical affidavit(s) from physician(s).</p> <p>Obtain medical records. Obtain Certification of Documents, CP&P Form 21-8.</p>
Worker/Supervisor	<p>Determine need for supervision/ services, including whether the child or other children in the home should be removed from the parent's/caregiver's custody, see CP&P-II-C-2-700, and/or placed with relatives.</p> <p>If service, supervision, or removal is necessary, obtain legal authority to provide same by obtaining parent(s)'s/ caregiver's agreement or court intervention.</p>

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Also, see [CP&P-II-C-5-1100](#).